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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

VITALY IVANOVICH SMAGIN,

Petitioner,

v.

ASHOT YEGIAZARYAN, a.k.a.  
ASHOT EGIAZARYAN,

Respondent.

**Case No. 2:14-cv-09764-R**

**ORDER GRANTING POST-  
JUDGMENT INJUNCTION**

**Before: The Hon. Manuel L. Real  
Courtroom: 8, 2nd Floor**

1 Before the Court is Petitioner Vitaly Ivanovich Smagin’s Application for a  
2 Post-Judgment Injunction. After reviewing the pleadings, evidence, and other  
3 materials, holding a hearing on October 26, 2016 to hear arguments from counsel, and  
4 being fully informed, the Court orders as follows.

5 On December 22, 2014, Petitioner Smagin filed this action seeking to confirm a  
6 final international arbitration award pursuant to the Convention on the Recognition  
7 and Enforcement of Foreign Arbitral Awards, June 10, 1958, 21 U.S.T. 2517, 330  
8 U.N.T.S. 38. At arbitration, Respondent Ashot Yegiazaryan, a.k.a. Ashot Egiazaryan,  
9 and Kalken Holdings Limited, a company existing under the laws of Cyprus, were  
10 found jointly and severally liable to Mr. Smagin in the amount of \$84,290,064.20.

11 This Court confirmed the arbitration award on March 17, 2016 and entered  
12 judgment in favor of Mr. Smagin on April 4, 2016 in the amount of \$92,503,652. Mr.  
13 Yegiazaryan appealed and sought a stay of enforcement pending appeal without the  
14 requirement of posting security for that stay. That request was denied, Mr.  
15 Yegiazaryan declined to post a bond and the Judgment is now final and enforceable.

16 Mr. Smagin recently sought a temporary restraining order and preliminary  
17 injunction on the grounds Mr. Yegiazaryan was continuing an admitted practice of  
18 concealing his beneficial ownership of assets that would inhibit or impair Mr.  
19 Smagin's ability to enforce his judgment. The Court granted the temporary restraining  
20 order and issued an order to show cause why a preliminary injunction should not issue  
21 and then set the matter for hearing. The matter was fully briefed by the parties. On  
22 October 26, 2016, at 10:00 am, the parties appeared before the Court. The Court  
23 heard argument of counsel for both sides. For the reasons set forth herein, as well as  
24 those stated on the record during the hearing, the Court will grant the requested  
25 preliminary injunction.

26 “The standard for a preliminary injunction is essentially the same as for a  
27 permanent injunction with the exception that the plaintiff must show a likelihood of  
28 success on the merits rather than actual success.” *Winter v. Natural Res. Def. Council*,

1 *Inc.*, 555 U.S. 7, 32 (2008) (quoting *Amoco Prod. Co. v. Gambell*, 480 U.S. 531, 542  
2 (1987)).

3 Accordingly, in order to issue this order, Mr. Smagin must establish that (1) he  
4 has succeeded on the merits of his confirmation claim; (2) he is likely to suffer  
5 irreparable harm absent an injunction; (3) the balance of the equities tips in favor of an  
6 injunction; and (4) an injunction is in the public interest. *Winter v. Natural Res. Def.*  
7 *Council, Inc.*, 555 U.S. 7, 24 (2008); *see also, e.g., Republic of Philippines v. Marcos*,  
8 862 F.2d 1355, 1362 (9th Cir. 1988); *Alliance for the Wild Rockies v. Cottrell*, 632  
9 F.3d 1127, 1131 (9th Cir. 2011).

10 First of all, the Court concludes that it has authority to issue preliminary  
11 injunctive relief in a post judgment setting, as long as the above criteria are satisfied.  
12 While the Ninth Circuit Court of Appeals has not addressed the precise issue, courts in  
13 the Third, Fifth, Sixth, and Eleventh Circuits have issued or affirmed similar asset  
14 freezes “where waste, dissipation, or transfer of assets by [judgment debtor] has a  
15 direct impact on appellee’s potential ultimate recovery.” *Meyers v. Moody*, 723 F.2d  
16 388,389 (5th Cir. 1984); *see also, West Hills Farms, LLC v. ClassicStar, LLC*, 2013  
17 WL 4515046, at \*1 (E.D. Ky. Aug. 23, 2013) (“[T]he Court concludes that it has  
18 authority to issue any necessary injunctive relief ‘in aid of its jurisdiction’ [over  
19 defendants who may waste, dissipate, or secret assets.]”); *Gambone v. Lite Rock*  
20 *Drywall*, 288 F. App’x 9, 12 (3rd Cir. 2009) (affirming post-judgment preliminary  
21 injunction in proceedings supplementary, explaining “so long as the plaintiffs’  
22 demand for injunctive relief qualifies as a post-judgment enforcement proceeding,  
23 which is a proceeding that functions as a means for executing a judgment, the District  
24 Court has subject matter jurisdiction.”); *Axiom Worldwide, Inc. v. HTRD Grp. H.K.*  
25 *Ltd.*, No. 8:11-cv-1468-T-33TBM, 2015 U.S. Dist. LEXIS 174042 (M.D. Fla. Dec. 8,  
26 2015) (holding district courts do not have “any less equitable power to order  
27 injunctive relief in the post-judgment setting, including an asset freeze, so long as  
28 such satisfies procedural and substantive rules for [prejudgment injunctive relief]”).

1 Similarly, in *Innovation Ventures, LLC v. N2G Distrib.*, No. SACV 12-717  
2 ABC (Ex), 2014 U.S. Dist. LEXIS 184729 (C.D. Cal. July 9, 2014), the Central  
3 District of California granted a post-judgment temporary restraining order prohibiting  
4 judgment debtors from transferring assets, opening new bank accounts, forming new  
5 business operations and engaging in the spoliation of evidence.

6 In his Response to the Court’s Order to Show Cause why injunctive relief  
7 should not issue, Mr. Yegiazaryan relies on *Grupo Mexicano de Desarrollo S.A. v.*  
8 *Alliance Bond Fund, Inc.*, 527 U.S. 308 (1999). However, *Grupo* is not controlling  
9 under these circumstances, as it only addresses a worldwide asset freeze in the context  
10 of pre-judgment injunctive relief in a suit for money damages prior to judgment. *See*  
11 *id.* at 319-21, 333 (holding that worldwide asset freeze is not available to “a general  
12 creditor (one *without a judgment*)”) (emphasis added). At this stage in the  
13 proceedings, Mr. Smagin is not merely a potential judgment creditor—rather, the  
14 Court has issued a final and enforceable judgment in his favor.

15 Additionally, the Court’s judgment in this case is not simply a damages award.  
16 Rather, Mr. Smagin filed this case to seek Court enforcement and confirmation of an  
17 arbitration award – a situation the Ninth Circuit has recognized as “tantamount to  
18 granting a request for specific performance of the [contract.]” *See United States v.*  
19 *Park Place Assocs.*, 563 F.3d 907, 931 (9th Cir. 2009). Accordingly, even if *Grupo*  
20 were otherwise applicable, which it is not, its holding would not preclude the  
21 injunction granted by this Court herein.

22 The Court has reviewed in detail the additional authority cited in Mr.  
23 Yegiazaryan’s Response, and finds that it does not preclude an injunction in this case.  
24 First, Mr. Yegiazaryan cites case law holding that a pre-judgment preliminary  
25 injunction freezing assets generally dissolves upon entry of a final judgment. *See U.S.*  
26 *Philips Corp. v. KBC Bank N.V.*, 590 F.3d 1091, 1093-94 (9th Cir. 2010). *Philips*  
27 addressed an action by the court to modify a prejudgment injunction that had already  
28 dissolved automatically upon entry of judgment. The court there did not at all address

1 the circumstances of a judgment creditor seeking a post-judgment asset freeze to  
2 secure a right to recovery, and that opinion is therefore not controlling or persuasive  
3 under these circumstances. *See id.*

4 Next, Mr. Yegiazaryan cites several cases addressing the steps available to  
5 enforce a judgment under state law. However, at best, these cases provide that the  
6 court may not issue affirmative or mandatory injunctive relief, such as holding parties  
7 in contempt or ordering the deposit of funds, for purposes of post-judgment  
8 enforcement of a money judgment. *See, e.g., Hilao v. Estate of Marcos*, 95 F.3d 848  
9 (9th Cir. 1996); *Spain v. Mountanos*, 690 F.2d 742, 744-45 (9th Cir. 1982); *Ecopetrol*  
10 *S.A. v. Offshore Exploration & Prod. LLC*, No. 14-CV-529 (JGK), 2016 U.S. Dist.  
11 LEXIS 40417, at \*15 (S.D.N.Y. March 28, 2016). By contrast, Mr. Smagin does not  
12 seek enforcement assistance but merely seeks a post-judgment injunction to preserve  
13 the status quo so he is not precluded from enforcing his judgment through Mr.  
14 Yegiazaryan's diversion of assets.

15 Moreover, this Court's injunctive authority may reach worldwide. "Once  
16 personal jurisdiction of a party is obtained, the District Court has authority to order it  
17 to 'freeze' property under its control, whether the property be within or without the  
18 United States." *Hilao v. Marcos (In re Estate of Marcos)*, 25 F.3d 1467, 1478 (9th  
19 Circ. 1994) (quoting *United States v. First Nat'l City Bank*, 379 U.S. 378, 384  
20 (1965)). Numerous courts have invoked this power to issue preliminary injunctions  
21 freezing assets worldwide to secure funds for an expected judgment. *See, e.g., SEC v.*  
22 *Int'l Swiss Inv. Corp.*, 895 F.2d 1272 (9th Cir. 1990); *Republic of Philippines v.*  
23 *Marcos*, 862 F.2d 1355 (9th Cir. 1988); *Omnium Lyonnais D'Etancheit Et Revetement*  
24 *Asphalte v. Dow Chem. Co.*, 441 F. Supp. 1385 (C.D. Cal. 1977). This power is even  
25 more justified here where Mr. Smagin already has a judgment.

26 Mr. Smagin has satisfied the criteria for the issuance of an injunction. To  
27 begin, he already prevailed on the merits. His arbitral award has been confirmed and  
28 he has a fully enforceable judgment.

1 In terms of irreparable injury, Mr. Yegiazaryan has fought long and hard to  
2 prevent enforcement of Mr. Smagin's award and judgment. This pattern of avoidance  
3 and concealment is well established. First, many of the findings of the London Award  
4 rest upon Mr. Yegiazaryan's concealing and misappropriating assets from Mr. Smagin  
5 through the use of entities in "offshore" jurisdictions, including Cyprus and the British  
6 Virgin Islands. Moreover, the arbitration tribunal made several findings  
7 demonstrating Mr. Yegiazaryan's lack of trustworthiness, including its rejection of his  
8 arguments that he had no interest in certain assets and that the operative agreement  
9 was forged. Those findings were echoed by the English High Court of Justice when  
10 they found that Mr. Smagin did not tell the truth in testimony about the ownership of  
11 his assets. The Court has previously made findings regarding these issues on multiple  
12 occasions and there is no reason that those findings should be any different now.

13 In February 2016, Mr. Smagin was able to intervene in Mr. Yegiazaryan's state  
14 court divorce proceedings and thereby gained access to documents (improperly filed  
15 under seal) establishing that in May 2015, Mr. Yegiazaryan settled a large arbitration  
16 award in his favor and placed at least \$188 million of the proceeds in a trust managed  
17 by a Lichtenstein trustee with a Monaco bank account. The Los Angeles Superior  
18 Court also granted a worldwide freezing order against the transfer of assets by Mr.  
19 Yegiazaryan and his wife, and because Mr. Smagin was protected by this order until  
20 recently, he did not seek additional injunctive relief from this Court.

21 Mr. Yegiazaryan later convinced the Superior Court that Mr. Smagin was only  
22 a "potential judgment creditor" and therefore did not have a sufficiently direct interest  
23 in the proceedings to intervene in the divorce proceedings and obtain the freezing  
24 order that the Superior Court previously granted.

25 Mr. Smagin immediately filed a motion for reconsideration of this order and  
26 requested that the order be stayed and the freeze remain in effect pending resolution of  
27 this motion. The family court summarily denied the request to stay. Accordingly, the  
28 asset freeze was set to terminate on October 14, 2016. On October 13, 2016, Mr.

1 Smagin filed with this Court his application for emergency injunctive relief. (ECF  
2 No. 84).

3 Without relief from this Court, Mr. Smagin would be left without protection  
4 from Mr. Yegiazaryan's duplicity. Mr. Yegiazaryan's record of concealing the true  
5 beneficial owner of assets through these types of nominee structures makes it likely  
6 that, given the opportunity, he will continue to hide the proceeds of this settlement in a  
7 way to avoid payment directly to himself in California where the proceeds would be  
8 subject to execution on the judgment. This Court believes that given Mr.  
9 Yegiazaryan's past actions, it is highly likely that these assets will immediately be  
10 moved to another nominee structure in another jurisdiction unknown to Mr. Smagin  
11 and out of the immediate reach of Mr. Smagin and his judgment. The Court therefore  
12 concludes that without the injunction Mr. Smagin will suffer irreparable injury in that  
13 Mr. Yegiazaryan is highly likely to continue to move the assets yet again to force Mr.  
14 Smagin to start from scratch and even further delay (or destroy) his right to collect his  
15 enforceable judgment.

16 Mr. Yegiazaryan's argument that Mr. Smagin will suffer no injury because he is  
17 fully protected by the so-called "Russian freeze" is unpersuasive. Both this Court and  
18 the Ninth Circuit Court of Appeals have heard and rejected this argument before on  
19 more than one occasion. There is no reason for this Court now to revisit this issue.

20 The Court further finds that the balance of equities and public interest weigh in  
21 favor of an injunction because the injunction operates only to ensure that Mr.  
22 Yegiazaryan lives up to his obligations under the arbitration award.

23 This Court finds it appropriate to issue an injunction in these circumstances.  
24 Personal jurisdiction is undisputed. The Court therefore may unquestionably enjoin  
25 Mr. Yegiazaryan and all those acting under his direction and control from taking  
26 actions to transfer, conceal or dissipate the proceeds of the arbitration settlement. Mr.  
27 Yegiazaryan, like the defendants in *Marcos*, has used a variety of financial structures  
28 and nominees to conceal his assets. *See, e.g.*, English Judgment, ¶ 6; Mr.

1 Yegiazaryan’s Second Kerimov Statement ¶¶ 2.5-2.7 (Mr. Yegiazaryan cataloguing  
2 nominees and offshore companies holding assets on his behalf and at his direction).

3 Accordingly, this Court will issue the requested worldwide injunction to “keep  
4 [Mr. Yegiazaryan’s] assets from disappearing” and preserve Mr. Smagin’s ability to  
5 recover the judgment in his favor. *See, e.g., Philippines v. Marcos*, 862 F.2d at 1364.  
6 The Court further finds that Mr. Smagin’s previous deposit of \$10,000 in security with  
7 the Clerk of Court will constitute adequate security for the injunction granted herein.

8 **IT IS HEREBY ORDERED** that the application for post-judgment injunctive  
9 relief is **GRANTED**;

10 **IT IS FURTHER ORDERED THAT**

11 Ashot Yegiazaryan, his agents, and/or any person or entity acting under his  
12 direction and control shall not take any action to transfer, assign, conceal, diminish,  
13 encumber, hypothecate, dissipate or in any way dispose of any proceeds, in an amount  
14 up to and including \$115,629,565, derived by or held for the benefit of Ashot  
15 Yegiazaryan, his agents, nominees, trustees or any person or entity acting under his  
16 direction and control, in payment, settlement or satisfaction of an arbitration award  
17 obtained in his arbitration with Suleyman Kerimov, without prior order of the Court  
18 permitting such a transfer, including specifically the "Kerimov settlement funds" as  
19 identified in the Stipulation Re Advance Distribution of Funds executed by Petitioner  
20 and Respondent on July 6, 2015 and filed with the Los Angeles Superior Court and  
21 any proceeds of or investments made with those funds, including specifically (but not  
22 limited to) any funds held by CTX Treuhand AG, Vaduz, Lichtenstein (under Alpha  
23 Trust or otherwise, or any other trustee), with Savannah Advisors Inc., c/o Alpenrose

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1 Wealth Management (or any other investment manager) and/or in an account at  
2 Compagnie Monegasque De Banque or in any other bank or financial institution.

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4 This injunction shall remain in effect until Mr. Smagin's judgment is satisfied in  
5 full or until otherwise dissolved by the Court.

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7 **IT IS SO ORDERED.**

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9 Dated: November 14, 2016.

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MANUEL L. REAL  
13 UNITED STATES DISTRICT JUDGE

14 CC: FISCAL